

MELVIN R. HOBGOOD

IBLA 77-233

Decided May 18, 1977

Appeal from decision of the Utah State Office, Bureau of Land Management, requiring additional rental prior to issuance of noncompetitive oil and gas lease U-34192.

Affirmed.

1. Oil and Gas Leases: Applications: Generally! ! Oil and Gas Leases:  
Noncompetitive Leases! ! Oil and Gas Leases:  
Rentals! ! Regulations: Applicability

Where the Department, through a duly promulgated regulation, has increased the rental rate on all noncompetitive oil and gas leases issued after a specified date, such increased rate is applicable to all leases issued subsequent to that date, including leases to be issued to successful offerors at simultaneous drawings held prior to the effective date of the rate increase.

APPEARANCES: Melvin R. Hobgood, pro se.

OPINION BY ADMINISTRATIVE JUDGE THOMPSON

Melvin R. Hobgood appeals from the February 15, 1977, decision of the Utah State Office, Bureau of Land Management (BLM), requiring the submission of additional rental on simultaneous oil and gas lease offer U-34192. The additional rental was required because the rental rate for noncompetitive oil and gas leases was increased from 50 cents per acre to \$ 1 per acre effective February 1, 1977, by an amendment to 43 CFR 3103.2-1. 42 FR 1032 (January 5, 1977).

Appellant's simultaneous entry card was drawn first for lease U-34192 in the July 1976 drawing held by the Utah State Office. Following notice from BLM of rental due, appellant submitted the rental for the first year of the lease on August 24, 1976, at the old rate of 50 cents per acre. By letter dated October 27, 1976, appellant inquired why his lease had not been issued. In a reply dated November 2, 1976, BLM informed appellant that special stipulations for the protection of Cedar Mesa Recreation Area were required for his lease and that no action could be taken until a report from the District Office was received. The case file had been sent to the BLM Moab District Office for report in August 1976. The special stipulations were subsequently completed and then sent to appellant for his signature on March 17, 1977.

Appellant argues that he was awarded his lease and paid his rental under existing regulations and should not be affected by subsequent amendments. We do not agree.

[1] The Board has ruled several times that the increased rental rate applies to all oil and gas leases issued after February 1, 1977, including leases to be issued to successful offerors at simultaneous drawings held prior to February 1. E.g., Doris N. Sterkel, 30 IBLA 316 (1977); Raymond N. Joeckel, 29 IBLA 170 (1977). As appellant was informed in November 1976, his lease could not be issued without the necessary stipulations. Because the time required by the various BLM offices to prepare the stipulations delayed issuance of appellant's lease past February 1, the lease became subject to the rental increase. As the Secretary of the Interior has stated 1/:

Although it might appear that applicants for oil and gas leases pending prior to February 1, 1977 have been treated unfairly under the Amended Regulations, it is important to note that there is an established precedent in the Department, reinforced by Court decisions, which dictates that no rights or responsibilities attach to a lease applicant until the lease is actually issued.

For the reasons stated in Raymond N. Joeckel, supra, appellant was properly required to pay the increased rental. See Hannifan v. Morton, 444 F.2d 200 (10th Cir. 1971); Miller v. Udall, 317 F.2d 573 (D.C. Cir. 1963).

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1/ Excerpt from letter of February 1, 1977, by Secretary Cecil D. Andrus to United States Senators Mike Gravel, James McClure, Paul Laxalt, Orrin Hatch, Malcolm Wallop, John Melcher, Jake Garn and Howard Cannon and quoted in Milton J. Lebsack, 29 IBLA 316 (1977).

Therefore pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Joan B. Thompson  
Administrative Judge

We concur:

Newton Frishberg  
Chief Administrative Judge

Joseph W. Goss  
Administrative Judge

